

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

MARVIN E. MCNEESE,)	
)	
Plaintiff,)	
)	
v.)	No. 04-0786-CV-W-FJG
)	
TOM RIDGE, SECRETARY,)	
DEPARTMENT OF HOMELAND)	
SECURITY, et al.,)	
)	
Defendants.)	

ORDER OF DISMISSAL FOR FAILURE TO PROSECUTE

Plaintiff filed his complaint November 30, 2004. As of April 15, plaintiff had not indicated that defendants have been served nor had he asked for an extension of time in which to obtain service. Therefore, the Court ordered plaintiff to show cause in writing on or before May 3, 2005, why this matter should not be dismissed for failure to prosecute. See Doc. No. 9. Plaintiff was further advised that his failure to respond to this Court's order would result in the dismissal of this case without further notice.

On May 2, 2005, the Court received a response from plaintiff as to why this case should not be dismissed for failure to prosecute. However, this response only addressed the merits of plaintiff's claims; it did not address plaintiff's failure to serve the complaint on defendants pursuant to the Federal Rules of Civil Procedure. Plaintiff did not indicate that defendants have been served or that he was attempting to make service upon defendants. Plaintiff did not ask for an extension of time to obtain service. Consequently, it is hereby **ORDERED** that the above entitled action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute. All pending motions in this case are **DENIED AS MOOT**.

IT IS FURTHER ORDERED that the Clerk of the Court send a copy of this order by regular and certified mail to plaintiff at the following address:

Marvin E. McNeese
518 N.E. Newport Dr.
Lee's Summit, MO 64064

IT IS SO ORDERED.

/s/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge

Dated: May 10, 2005.
Kansas City, Missouri.